

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

B & L Technologies,
Petitioner-Appellant,

v.

Wayne County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-93-0040
Parcel No. Humeston Corp.

On November 18, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, B & L Technologies, was self-represented by owner Robert Hintz, President, and submitted evidence in support of its appeal. The Wayne County Board of Review designated County Attorney Alan M. Wilson as its legal representative. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

B & L Technologies, LLC (B & L) owner of commercial property located in Seymour, Iowa, appeals from the Wayne County Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2011, assessment and valued at \$19,595.

B & L protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). B & L also claimed error; however, the error was related to the market value. Therefore, this Board will only consider the ground of market value. The Board of Review denied the protest stating, "taxpayer failed to substantiate proof."

B & L filed its appeal with this Board on the same ground. B & L claims \$2500 is the actual and fair market value. It seeks \$17,095 in relief.

The subject property is an analog cablevision segment with seventeen current subscribers. The system does not have digital or internet capabilities. The record shows B & L purchased the property for \$17,100 in 2009.

Bob Hintz, President and sole owner of B & L, testified the cable system is outdated and cannot provide digital, internet, or VOIP system to his clientele. Hintz is of the opinion that the subject's only value is scrap value.

Hintz provided income and expense information that indicated a net loss of \$477.38. He testified he is able to stay in business because other properties he owns cover his costs. He stated this system will more than likely shutdown because of future cost and the system's obsolescence. He opined analog has no upgrade potential and will be obsolete in five to ten years. He continues to lose customers.

Thomas Graves of Iowa Cable and Telecommunications Association, Inc., testified on behalf of B & L. Graves stated that although B & L is not a member of his association, he agreed to testify. Graves has a background in property tax. In Graves' opinion, the property has no value. Graves testified that he contacted cable television companies regarding the likelihood of anyone being willing to purchase a cable system like the subject property. He found that no one would be willing to purchase a system as outdated as B & L. In his opinion, the system would have some salvage value for the copper, but that value would have to be reduced by the amount of labor required to take down the plant and strip out the copper.

Graves testified the cost for a cable system represents a ceiling and no assessment should be higher. But when market values are lower, it is not appropriate to use the cost system market analysis.

Graves believes the *Department of Revenue Cable Cost Manual* is appropriate for most cable systems but not in the subject property's case.

Kay Middlebrook, Wayne County Assessor, submitted evidence on behalf of the Board of Review. Middlebrook testified she used the Department of Revenue Cable Television Reporting Form (Exhibit B). The property's value based on the form was \$14,376. She added \$4110 for structures to arrive at a value of \$18,480. Middlebrook then added a 6% equalization order by the Department of Revenue in 2009, which increased the value to \$19,588.80. This is the basis for the January, 2011, assessment.

This Board is aware the assessor must follow the form provided by the Department of Revenue. However, it is clear from the evidence in the record that the cable manual does not work for the subject property or may not work for any cable system. We note the subject property is an outdated analog system, not a digital system with internet or VOIP options. Also, the form does not allow for depreciation or any obsolescence for the outdated analog system to create the January 1, 2011, assessment.

The appellant, B & L, failed to prove by the preponderance of the evidence that the subject property market value is \$2500. Although we do not agree that the manual provides an accurate reflection of value in this factual case B & L lacks data to support a lower assessment. And the only evidence of a value was that provided by the assessor. Therefore, we affirm the assessment as determined by the Board of Review.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21 (2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The preponderance of the evidence in the record does not support B & I Technologies' claim that the property is over assessed.

THE APPEAL BOARD ORDERS the assessment of the B & L Technologies property located in Wayne County, Iowa, as determined by the Wayne County Board of Review is affirmed.

Dated this 24 day of January 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-24</u> , 2012	
By	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	